

AGENDA
TOWN OF EDGEWOOD
REGULAR COUNCIL MEETING – SEPTEMBER 9, 2015 @ 6:30 P.M.
EDGEWOOD COMMUNITY CENTER - #27 E. FRONTAGE ROAD

PLEASE SILENCE ALL ELECTRONIC DEVICES DURING MEETING
THANK YOU.

(The Town of Edgewood Council is pleased to have residents of the community take time to attend Council Meetings. Attendance and participation is encouraged. Individuals wishing to be heard during Public Hearing proceedings are encouraged to be prepared. Public comments may not be disruptive or harassing, and all persons are expected to maintain respect and decorum. Accordingly, rude, slanderous, or abusive comments and/or boisterous behavior will not be permitted. Written comments are welcomed and should be given to the Clerk-Treasurer prior to the start of the meeting).

- **CALL TO ORDER.**
- **PLEDGE OF ALLEGIANCE.**

1. APPROVAL OF AGENDA.

2. APPROVAL OF CONSENT AGENDA.

- A. Approval of the Draft Regular Council Meeting Minutes of August 5, 2015.
- B. Approval of the Draft Regular Council Meeting Minutes of August 19, 2015.
- C. Approval of the Draft Special Council Meeting Minutes of August 22, 2015.
- D. Acknowledge Receipt of the Draft Planning & Zoning Commission Meeting Minutes of August 18, 2015.
- E. Acknowledge Receipt of the Draft Planning & Zoning Commission Meeting Minutes of September 1, 2015.

3. MATTERS FROM THE MAYOR.

- A. Parks & Recreation Advisory Committee.
 - Appointment of Mr. Philip Silva.
 - Re-Appointment of Mr. Ray Seagers.
 - Certificate of Appreciation for Mr. Clark McDuell.
 - Nomination needed for 2 Alternates.
- B. Capital Projects Update.
- C. Memorial Event – Wildlife West for 911.

4. MATTERS FROM THE COUNCILORS and/or ANNOUNCEMENTS.

5. PUBLIC HEARING.

Legislative Procedure: Certification that Public Notice of this Meeting has been posted as required:

- A. Proposed Ordinance No. 2015-07 An Ordinance Approving an Economic Development Project Entitled Comfort Inn; Providing for Basic Infrastructure to Accommodate Construction of Hotel and for Costs of Infrastructure for a Hotel in the Town of Edgewood.

6. APPROVAL OF THE PROJECT PARTICIPATION AGREEMENT BETWEEN THE TOWN OF EDGEWOOD AND ASPIRE HOTELS, LLC.

7. PUBLIC COMMENTS OF GENERAL MATTERS. Limit to 2 minutes per person.

8. **CALL FOR PUBLIC HEARING.**
 - A. Amendment to Ordinance No. 2003-11. A Local Ordinance Regulating the Siting of Wireless Telecommunications Facilities. (To be heard at the Regular Council Meeting of October 7, 2015.
9. **MATTERS FROM THE ADMINISTRATOR.**
 - A. Approval to hire Rebecca Sanchez as Secretary-Receptionist.
 - B. Approval to hire Saul Urbina, Police Officer for the Edgewood Police Department.
 - C. Approval from Department of Finance & Administration for the 2015-2016 Final Budget.
 - D. Approval for temporary signs for the Woofstock Event.
10. **ANNOUNCEMENTS and/or CALENDAR REVIEW.**
 - A. Regular Council Meeting - September 16, 2015 @ 6:30 P.M.
 - B. Regular Council Meeting – October 7, 2015 @ 6:30 P.M.
11. **FUTURE AGENDA ITEMS.**
12. **ADJOURN.**

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Clerk at the Town Offices located at 1911 Historic Route 66, at least five (5) days prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Town Clerk at (505)286-4518, or by e-mail at clerk@edgewood-nm.gov if a summary or other type of accessible format is needed. **The complete council packet may be viewed on the web, visit www.edgewood-nm.gov click on Agendas & Minutes.**

**MINUTES
TOWN OF EDGEWOOD
REGULAR COUNCIL MEETING – AUGUST 5, 2015 @ 6:30 P.M.
EDGEWOOD COMMUNITY CENTER - #27 E. FRONTAGE ROAD**

• **CALL TO ORDER.**

Mayor Hill called the meeting to order at 6:30 P.M.

Present: Councilor John Abrams, Councilor Rita Loy Simmons, Councilor Chuck Ring, and Councilor Sherry Abraham.

Also Present: Ms. Vanessa Chavez, Legal Counsel, Mr. Steve Shepherd, Administrator and Ms. Estefanie Muller, Clerk-Treasurer.

• **PLEDGE OF ALLEGIANCE.**

1. APPROVAL OF AGENDA.

MOTION: Councilor Simmons made a motion to approve the Agenda as presented. Councilor Abrams seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Ring voted aye. Councilor Abraham voted aye. Councilor Abrams voted aye. The motion carried.

2. APPROVAL OF CONSENT AGENDA.

A. Approval of the Draft Regular Council Meeting Minutes of July 15, 2015.

B. Approval of the Draft Special Council Meeting Minutes of July 25, 2015.

C. Acknowledge Receipt of the Draft Planning & Zoning Commission Meeting Minutes of July 21, 2015. (Meeting Cancelled for lack of Agenda items.)

D. Acknowledge Receipt of the Draft Special Planning & Zoning Commission Meeting Minutes of July 30, 2015. Note: The Regular Meeting of August 4, 2015 has been cancelled.

MOTION: Councilor Simmons made a motion to approve the Consent Agenda. Councilor Abrams seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Ring voted aye. Councilor Abraham voted aye. The motion carried.

3. MATTERS FROM THE MAYOR.

A. Recognition of Mr. John Suda.

Mayor Hill stated John Suda was a citizen to be recognized. He was a very prominent man in the community and on the Library Board. He will be sadly missed. Mayor Hill called for a moment of silence. Councilor Simmons stated Mr. Suda was instrumental in acquiring computers for the Library and was a soul of volunteerism. Councilor Ring stated Mr. Suda's services were primarily for the Library; he got the first computers and also assisted in getting them replaced.

B. Governing Body Attorney-Client Communication.

Mayor Hill commented stating there are certain issues that would need legal counsel present. If it's a litigation issue, there may be the need to stop discussion and go into

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Closed session. Ms. Chavez stated there are two things that may suspend litigation, attorney-client matter of course and the Governmental Conduct Act, for conflicts. Mayor Hill stated that discussion with litigants is inappropriate without legal counsel. Councilor Ring asked what if Staff has been asked to do something and has not been done. Mayor Hill stated the Governing Body established policy and response would depend on the request, some requests may be appropriate, or there could be lack of clarity, and may need to be an administrative request. Councilor Ring stated he feels there was a violation of the Open Meetings Act in removing him as Mayor Pro-Tem. Mayor Hill asked Ms. Chavez to provide a formal response on the action taken.

C. Update on Economic Development Activity.

Mayor Hill stated the community is on solid footing; the Council has been inundated with proposals. He stated negotiations are ongoing that will be a great benefit to the Town. These will be brought to the Governing Body in the future.

D. Mayor Hill reminded everyone present on the annual Run, Rally, and Rock and invited everyone out on Saturday, August 8, 2015. There will be a parade, all day events, and The Wildlife West has special activities. The Chamber is still looking for volunteers; a driver and traffic controllers.

4. MATTERS FROM THE COUNCILORS and/or ANNOUNCEMENTS.

A. Clarification on the Meeting Minutes of the Regular Council Meeting of July 1, 2015 Councilor John Abrams.

Mayor Hill explained that the Minutes of July 1, 2015 have been approved and Councilor Abrams is requesting they be amended. His comments will be reflected in the minutes of this meeting.

Councilor Abrams stated he is bringing this to the Council's attention because he is concerned that when the minutes were approved, that what he actually said during the session was not accurately reflected in the minutes. The perception of what he said was reflected in the minutes, but what was actually said was not. And that is of concern, because perceptions are one thing, the actuality of what is being said is extremely important, especially in meeting minutes. It concerns him that this kind of interpretive license, if you will, on meeting minutes may have an effect in the future of the minutes that are presented as the public record. Councilor Abrams stated he took the liberty of asking the Town Clerk to provide a verbatim transcript of the audio recording. It is part of tonight's packet and is available if you want a copy of it. He stated that he did not want to read the whole thing over again, but would like to point out a couple of things. In the verbatim transcript about half way through, he made a statement that he couldn't understand what was going on. The word that was translated from the verbatim is the word "phantom" and the word actually used was the word "fathom." Once again interpretive licensing and those kinds of things I understand, because I can see that the recordings are sometimes difficult to understand, so there may be an issue. However, once again, when you are interpreting something you must have the intent along with interpretation. Legal interpretations are very, very critical and we have to

have correct interpretation of what's being said. Councilor Abrams continued as having talked about this before, in other instances, but this is a very, very good example. He stated he would like to read what was said towards the end of his comment under Matters from Council, he stated the following "he would ask very very cordially for Councilor Ring to very very carefully consider his current position." At no time did I ask for any action other than his consideration. And then I stated, I have nothing else to say. And with that, Councilor Abrams stated he will have this in the record. Thank you very much.

Mayor Hill thanked Councilor Abrams and stated he thinks everybody in the governing body agrees, it is the desire that the minutes truly and honestly reflect what is said, and intended at a Council meeting. He feels this Council does a good job of carefully reviewing the minutes prior to approval. The minute's process is not an exact science, legal counsel and the Municipal League has made it very clear that we don't want verbatim, it is not advisable. We do have every opportunity to clarify and be transparent as to what transpires at Council meetings. It's not perfect science, just as the recording devices are not perfect; we've had issues in the past. I find that to be very troubling, that is why you see two devices instead of one. Hopefully the redundancy will prevent some of the issues we've had in the past. These devices do well with certain limitations and we will probably have to upgrade this technology at some point in the not too distant future. We as Council members, tend to not to speak clearly at all times during the meetings, I am just as guilty of that as anybody, and by not speaking clearly enough, the recorder will not pick up. Again in the spirit of transparency and public record again lets proceed with caution.

Councilor Abrams commented on Highway 344 with the new shoulders and road work. Mr. Henninger stated NMDOT is widening the shoulders to install guardrail. Mayor Hill stated a letter will be sent to NMDOT asking them again to please notify the Town in writing on projects and conveying them verbally.

Discussed were the trail and how the gravel washed out exposing the fabric. The Town will need to go back and make the necessary improvements. Councilor Ring stated there were no compactions and no money to engineer the project; he stated no more money should be spent until there is a sure fix.

5. MATTERS FROM THE MUNICIPAL JUDGE.

A. Judge White will present his report for the month of July, 2015.

Judge White presented his report with no questions from the Governing Body. Judge White stated he is working on a possible Ordinance change for harassment and the definition. He will work with the Town's legal counsel, staff and the New Mexico Municipal League.

MOTION: Councilor Simmons made a motion to approve the Judge's Report for the month of July, 2015. Councilor Ring seconded the motion.

VOTE: Councilor Abraham voted aye. Councilor Ring voted aye. Councilor Simmons voted aye. Councilor Abrams voted aye. The motion carried.

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6. **PUBLIC COMMENTS OF GENERAL MATTERS. Limit to 2 minutes per person.**
Ms. Susan Simons, Chair of the Animal Welfare Advisory Board, referred to a letter she had addressed to the Mayor and Governing Body on behalf of the Advisory Board. She addressed issues on the new facility, one being the lack of a secure area for the Animal Control Officers bringing in animals, and the other issue on the cleaning system. Mayor Hill stated he would like to address these issues by meeting with Ms. Simon and then meet with the committee. He stated he welcomed their comments and some changes have been made to the facility. Councilor Ring asked that a report be brought to them on decisions made to the facility.

Mr. Ryan Brightbill discussed the need of repair to Horton Road between Nugent and Frost Road. He met with Chris Barela, Santa Fe County on the problem and asked if they could help the Town. He appreciated the road closed signs that have been put up. Mayor Hill stated he is aware of the issues.

7. **NEW MEXICO MUNICIPAL LEAGUE ANNUAL CONFERENCE VOTING DELEGATES.**

MOTION: Councilor Ring made a motion to appoint Rita Loy Simmons as the Voting Delegate and Mayor Hill as the Alternate. Councilor Abraham seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Ring voted aye. Councilor Abraham voted aye. The motion carried.

8. **PUBLIC HEARING.**

Legislative Procedure: Certification that Public Notice of this Meeting has been posted as required: Ms. Muller certified Public Notice of this Meeting was posted as required.

A. Adoption of Gross Receipts Infrastructure Program.

Mayor Hill stated this ordinance was adopted by The City of Rio Rancho and is best described as a mini tax increment district proposal. This proposal has been a very viable tool to enhance the economic development within the city. This best suits a specific project that has to be viable on the way before it gets taxed.

Mayor Hill requested that they continue this public hearing to the next council meeting.

MOTION: Councilor Abraham made a motion to continue this Public Hearing to the next Council Meeting. Councilor Simmons seconded the motion.

Mr. John Bassett asked if there would be a creation of a fund for this. Mayor Hill stated yes, the Town ledger would track separately. The annual audit would also have this in the report.

VOTE: Councilor Abraham voted aye. Councilor Ring voted aye. Councilor Simmons voted aye. Councilor Abrams voted aye. The motion carried.

9. **PUBLIC HEARING.**

Legislative Procedure: Certification that Public Notice of this Meeting has been posted as required: Ms. Muller certified that Public Notice of this Meeting has been posted as required.

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A. Amendments to Zoning Ordinance No. 2014-02.

Mr. Shepherd thanked Janelle Turner and John Bassett for their input and reviewed the changes to the Ordinance as follows:

Section 14. R-3 Residential/Institutional Zone, 2.b. will state: "The gross density of lots shall not exceed six (6) dwelling units per acre, if connected to on-site septic and twelve (12) dwelling units per acre, if connected to the Town wastewater treatment facility; and" Also, add #4. Medical Care Provider Offices.

MOTION: Councilor Abrams made a motion to approve Zoning Ordinance No. 2014-02 amendments under Section 14. R-3 Residential/Institutional Zone, B.2.b. to state: The gross density of lots shall not exceed six (6) dwelling units per acre, if connected to on-site septic and twelve(12) dwelling units per acre, if connected to the Town wastewater treatment facility; and" and to add B.2.4. to state: Medical Care Provider Offices. Councilor Simmons seconded the motion.

VOTE: Councilor Abraham voted aye. Councilor Ring voted aye. Councilor Simmons voted aye. Councilor Abrams voted aye. The motion carried.

10. RESOLUTIONS.

A. Amendment to Resolution No. 2015-11 - A Resolution to Participate in the New Mexico Department of Transportation Municipal Arterial Program (MAP) within The Town of Edgewood, New Mexico.

Mr. Shepherd stated the resolution needs to include the scope of work and asked for a motion to this.

MOTION: Councilor Abrams made a motion to approve Resolution No. 2015-11. Councilor Simmons seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Ring voted aye. Councilor Abraham voted aye. The motion carried.

11. MATTERS FROM THE ADMINISTRATOR.

Mr. Shepherd stated Bonnie Pettee has accepted the position of Planning Assistant and Rebecca Sanchez has been hired as the Secretary-Receptionist.

12. ANNOUNCEMENTS and/or CALENDAR REVIEW.

A. Regular Council Meeting - August 19, 2015 @ 6:30 P.M.

B. Regular Council Meeting – September 2, 2015 @ 6:30 P.M.

Mayor Hill stated he would be on Channel 2 to promote Run, Rally, Rock. The Governing Body discussed the September Council Meetings, to be scheduled on September 9th and September 16th.

NOTE: The Town Offices will be closed on Monday, September 7, 2015 in observance of Labor Day.

13. FUTURE AGENDA ITEMS.

A. Public Hearing – Adoption of the 2017-2021 ICIP.

B. Public Hearing – Continuation of the Wastewater Ordinance.

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14. ADJOURN.

MOTION: Councilor Simmons made a motion to adjourn the Meeting. Councilor Abrams seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

Mayor Hill adjourned the meeting at 7:55 p.m.

PASSED, APPROVED and ADOPTED this 9th day of September, 2015.

Brad E. Hill, Mayor

ATTEST:

Estefanie B. Muller, CMC, Clerk-Treasurer

**DRAFT MINUTES
TOWN OF EDGEWOOD
REGULAR COUNCIL MEETING – AUGUST 19, 2015 @ 6:30 P.M.
EDGEWOOD COMMUNITY CENTER - #27 E. FRONTAGE ROAD**

• **CALL TO ORDER.**

Mayor Hill called the meeting to order at 6:30 p.m.

Present: Councilor John Abrams, Councilor Rita Loy Simmons, Councilor Sherry Abraham, and Councilor Chuck Ring.

Also present: Attorney Robert White, Steve Shepherd, Administrator, and Ms. Estefanie Muller, Clerk-Treasurer.

• **PLEDGE OF ALLEGIANCE.**

1. **APPROVAL OF AGENDA.**

Mayor Hill stated item 11B will be deleted from the agenda.

MOTION: Councilor Abrams made a motion to approve the agenda, deleting item 11B. Councilor Ring seconded the motion with discussion.

Mayor Hill stated the item was remove because a Hearing Officer was no longer needed.

VOTE: Councilor Ring voted nay. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

2. **APPROVAL OF CONSENT AGENDA.**

A. Approval of the Draft Regular Council Meeting Minutes of August 5, 2015.

B. Acknowledge Receipt of the Library Report for the month of July, 2015. The Library Board Meeting for July was cancelled.

C. Animal Control Advisory Board Meeting for July was cancelled.

D. Acknowledge Receipt of the Draft Parks & Recreation Meeting Minutes of July 6, 2015.

MOTION: Councilor Abrams made a motion to approve the Consent Agenda, with the exception of Item A. Councilor Simmons seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

Councilor Abrams stated he would like to have the Minutes of the August 5th meeting reviewed and grammatically amended.

3. **MATTERS FROM THE MAYOR.**

A. Memorandum of Understanding with Santa Fe County and the Library was received for 2015-16.

Mayor Hill stated the Town received an announcement of the Library Grant for \$25,000 from Santa Fe County.

B. Sound System

Mayor Hill announced there is a new sound system and we are still using the previous system as back up. The new system will be “manned” at each meeting to assure proper recording. Mayor Hill added that James Solomon has successfully completed his probation period with the Town. He is an excellent employee and we have received many compliments regarding his work.

C. Susan Simon

Mayor Hill stated that he recently met with Susan Simon, Chairperson of the Animal Control Advisory Committee, to discuss concerns about the new animal shelter. He stated that the requests made were reasonable and the Town would make every effort to accommodate them. He added they are important issues.

D. Letter from Robert Max

Mayor Hill read a letter from Robert Max, Boy Scout Troop Leader, who heard about the possibility of a YMCA coming to Edgewood. He would like feedback from Council members about what plans they have to bring other activities to the community.

Councilor Ring suggested that Mr. Max tell them what he would like to see.

Councilor Abraham suggested that if a Youth Government, which was part of the school, still exists, they could interact with the Town in presenting ideas.

Mayor Hill noted I-9 Sports had representatives tonight. They will speak later with regards to bringing sports to Edgewood.

Mayor Hill introduced Debbie Ortiz, Torrance Community Coordinator.

Ms. Ortiz stated she was hired by the United Way and has compiled a Resource Guide for services accessible for the communities in the area. She stated it was a work in progress and asked for suggestions on improvements.

Mayor Hill suggested adding Santa Fe County Services to the list.

4. MATTERS FROM THE COUNCILORS and/or ANNOUNCEMENTS.

Councilor Ring noted that he was waiting to receive a letter from the Attorney regarding his removal as Mayor Pro-Tem. He, also, questioned the decision to not hire a Hearing Officer, in light of a person being fired and then terminated again.

Mayor Hill replied that these items would be discussed in Closed Session. He added that Attorney Chavez became ill earlier today. Attorney White will attend in her place and may have an answer to Councilor Rings questions.

Attorney White arrived at this time.

5. MATTERS FROM THE ATTORNEY.

None.

6. TOWN OF EDGEWOOD POLICE REPORT – Chief Radosevich.

A. Police Report and Animal Control Report for the month of July, 2015.

Chief Radosevich presented his report.

Mayor Hill read two cards that were received with appreciation to the Police Department and also to Officer Lovato for his polite and professional manner.

Chief Radosevich gave an update on the buildings saying construction is moving along quite nicely. The drywall and texturing is being done, as well as the floors.

Councilor Simmons praised Officer Wendt for her actions in the recent situation with the stray cows and a bull.

Chief Radosevich noted that Woofstock will be held on September 12, 2015, a Safety Fair will be held at Rich Ford this weekend and a Petco grant was received for \$4000.

MOTION: Councilor Abrams made a motion to approve the Police Report for the month of July, 2015. Councilor Simmons seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

7. PUBLIC COMMENTS OF GENERAL MATTERS. Limit to 2 minutes per person.

Mark Magania spoke regarding the Gross Receipts Incentive Program. He thought it would make a big difference in Edgewood.

Susan Simon thanked the Mayor for meeting with her to discuss the changes to the new animal shelter. She inquired about a \$1195 change order.

Steve Shepherd replied he would get the information to her.

John Bassett thanked the Staff for the new sound system; stating he could hear the conversation much better. He mentioned that the download speed of the town website was slow. Estefanie Muller, Town Clerk-Treasurer replied that the packet for this meeting was quite large and was hard to e-mail, it had to be divided.

It was suggested that the staff check the expected speed for downloading and report back at the next meeting.

Daniel Brock, from I-9 Sports, is making an effort to bring sports to Edgewood for children 3-14 years of age. They need a field to use. They would like to begin next fall.

Councilor Abraham stated the MESD has approved the use of the field at the Elementary school and suggested he look at logistics.

Mayor Hill stated this was a reasonable request and the Town would work to find accommodations early next year.

8. PUBLIC HEARING.

Legislative Procedure: Certification that Public Notice of this Meeting has been posted as required:

A. Adoption of the 2017-2021 Infrastructure Capital Improvements Plan (ICIP) by Resolution No. 2015-16.

Estefanie Muller certified that the notice was posted as required.

Steve Shepherd presented the ICIP Resolution and asked for approval with the option to make minor changes if deemed necessary.

MOTION: Councilor Ring made a motion to approve the adoption for the 2017-2021 Infrastructure Capital Improvements Plan by Resolution No. 2015-16. Councilor Simmons seconded the motion.

Councilor Abraham inquired about the purchase of a second water truck.

Mr. Shepherd replied that we only have one water truck currently.

Councilor Abraham noted that Santa Fe County sells their water.

Mr. Shepherd stated that we allow the area construction companies to use the water for free.

Councilor Ring replied that we should stop giving it away. He added the City of Albuquerque donates good equipment.

Mayor Hill stated the Town would check that out.

John Bassett addressed the Councilors with a project he wanted to be considered. He stated that Church Road East was in need of repair and could be added to the ICIP. He listed several businesses along Church that could use a good road and this would be a good way for the town to say thanks to the business owners.

Mayor Hill encouraged Mr. Bassett to bring this project back again at the beginning of the process next year.

Jeremiah Turner presented a petition to get wastewater extensions to the property owners along I-40. He also presented a letter stating their desire.

Mayor Hill replied the goal is to extend the sewer to Section 16 and then core areas.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

9. PUBLIC HEARING.

Legislative Procedure: Certification that Public Notice of this Meeting has been posted as required:

Continued from the Council Meeting of July 15, 2015.

A. Proposed Ordinance No. 2015-03; An Ordinance Governing the Collection, Treatment, and Disposal of Wastewater Within the Town; Providing for Procedures and Policies for Obtaining Wastewater Service from the Town; Providing for the Authority of the Town and Providing for Fees and Penalties. Repealing Ordinance No. 2010-01 An Ordinance Providing for Connection to Wastewater Facilities of the Edgewood Sewer District; and Repealing Ordinance No. 2010-02. An Ordinance Governing the Wastewater and Sewage Disposal.

Estefanie Muller certified that the Public Notice was posted as required.

Tappan Mahoney reviewed the final changes for proposed Ordinance No. 2015-03.

Mayor Hill expressed his appreciation to the governing body for their thoughtfulness, willingness and patience for the time spent on this ordinance.

MOTION: Councilor Simmons made a motion to adopt Ordinance No. 2015-03; An Ordinance Governing the Collection, Treatment, and Disposal of Wastewater Within the Town; Providing for Procedures and Policies for Obtaining Wastewater Service from the Town; Providing for the Authority of the Town and Providing for Fees and Penalties. Repealing Ordinance No. 2010-01 An Ordinance Providing for Connection to Wastewater Facilities of the Edgewood Sewer District; and Repealing Ordinance No. 2010-02. An Ordinance Governing the Wastewater and Sewage Disposal; as rewritten on August 19, 2015. Councilor Abraham seconded the motion.

Mayor Hill opened the Public Hearing.

Mr. John Bassett inquired about the annual rate changes on page 31. He felt a fixed amount would be easier than following the consumers price index.
Mayor Hill explained that he would like to keep it tied to the economy.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

B. Resolution No. 2015-03. A Resolution Establishing a Wastewater Service Area Map. Tappan Mahoney reviewed the Wastewater Service Area Map. He added line extension and other changes would be based on expansion areas.

MOTION: Councilor Abraham made a motion to adopt Resolution No 2015-03; A Resolution Establishing a Wastewater Service Area Map. Councilor Simmons seconded the motion.

There were no Public Comments.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

10. PUBLIC HEARING.

Legislative Procedure: Certification that Public Notice of this Meeting has been posted as required: **This Public Hearing is continued from the Council Meeting of August 5, 2015.** Estefanie Muller certified that the Public Notice was posted as required.

A. Adoption of Gross Receipts Infrastructure Program.

Mayor Hill stated that this program was intended to create incentives for new businesses wanting to develop in Edgewood. Each proposed development would be reviewed on a case by case basis.

MOTION: Councilor Simmons made a motion to adopt the Gross Receipts Infrastructure Program. Councilor Ring seconded the motion with discussion.

Mayor Hill and the Governing Body reviewed and completed Section 4, Qualifying Project.

Mark Magania asked why the need for criteria.

Mayor Hill explained the criteria is for large scale development where there is significant capital.

Mr. Magania stated what the developer is looking for is a means for infrastructure.

Mr. Ray Seagers stated he is all for the Ordinance but has a few questions. He inquired about new vs expanding businesses. He also asked if infrastructure would include internet and he felt that the Town's use of arbitrary numbers in Section 4 could be problematic.

Mayor Hill replied with regard to the internet that public resources could not be used privately. He added the larger scale projects needed to be separate from the smaller projects. Each application will go before the governing body and this will be a guideline. Mr. John Bassett commented on Section 4 and referred to the number of hotel rooms. Mayor Hill stated the infrastructure would come first, which makes the project feasible. The applicant pays for the infrastructure and the Town reimburses him from the gross receipts tax.

Councilor Abrams added the payment cannot exceed the cost of the infrastructure.

MOTION: Councilor Simmons amended her motion to include the changes.
Councilor Ring seconded the amendment.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

11. MATTERS FROM THE ADMINISTRATOR.

A. Introduction of Secretary – Receptionist, Ms. Rebecca Sanchez.

Mr. Steve Shepherd introduced Ms. Rebecca Sanchez as the new Secretary-Receptionist. Her family is from Estancia and happy to have her as part of our team.

Councilor Ring asked if the Council had approved her hiring.

Ms. Muller replied that this was a budgeted position that was being filled. Council had previously stated that filling this type of vacancy did not require Council Approval.

B. Appointment of Hearing Officer for the Town of Edgewood.
(This item was deleted from the agenda.)

12. APPROVAL OF THE FINANCIAL REPORT FOR THE MONTH OF JULY, 2015.

Mayor Hill stated that an analysis of our GRTs will be brought to the 2nd meeting of September.

MOTION: Councilor Simmons made a motion to approve the Financial Report for the month of July, 2015. Councilor Ring seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

Mayor Hill requested to hold a Special Meeting on Saturday, August 22, 2015 at 1:00 p.m. The meeting will be Closed Session. Legal Counsel will be available. Councilors Abrams, Simmons, and Abraham noted they would be available.

13. ANNOUNCEMENTS and/or CALENDAR REVIEW.

A. Regular Council Meeting – Scheduled to September 9, 2015 @ 6:30 P.M.

B. Regular Council Meeting – September 16, 2015 @ 6:30 P.M.

C. New Mexico Municipal League Annual Conference – September 2-4, 2015.

NOTE: The Town Offices will be closed on Monday, September 7, 2015 in observance of Labor Day.

14. FUTURE AGENDA ITEMS.

15. CLOSED SESSION.

As per motion and roll call vote, pursuant to NMSA 1978, 10-15-1-(H)(2) and (H)(7) the following will be discussed in Closed Session.

- Limited Personnel Matters
- Pending Litigation

MOTION: Councilor Abrams made a motion to go into Closed Session pursuant to NMSA 1978, 10-15-1-(H)(2) and (H)(7) the following will be discussed in Closed Session: Limited Personnel Matters and Pending Litigation. Councilor Abraham seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

MOTION: Councilor Abrams made a motion to go back to Open Session. Councilor Abraham seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

Councilor Abrams affirmed only Limited Personnel Matters and Pending Litigation were discussed and no decisions were made.

Councilor Abraham affirmed only Limited Personnel Matters and Pending Litigation were discussed and no decisions were made.

Councilor Simmons affirmed only Limited Personnel Matters and Pending Litigation were discussed and no decisions were made.

Councilor Ring affirmed only Limited Personnel Matters and Pending Litigation were discussed and no decisions were made.

Mayor Hill affirmed only Limited Personnel Matters and Pending Litigation were discussed and no decisions were made.

Mayor Hill stated this is not an easy job as a governing body. He appreciates all the hard work and great communication to get the job done.

16. MOTION PER CLOSED SESSION.

17. ADJOURN.

MOTION: Councilor Simmons made the motion to adjourn the meeting of August 19, 2015. Councilor Abrams seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

Mayor Hill adjourned the meeting at 9:35 pm.

PASSED, APPROVED and ADOPTED this 9th day of SEPTEMBER, 2015.

Brad E. Hill, Mayor

ATTEST:

Estefanie B. Muller, CMC, Clerk-Treasurer

**MINUTES
TOWN OF EDGEWOOD
SPECIAL COUNCIL MEETING – SATURDAY, AUGUST 22, 2015 @ 1:00 P.M.
TOWN HALL CHAMBERS, 1911 OLD HIGHWAY 66**

1. CALL TO ORDER.

Mayor Hill called the meeting to order at 1:00 p.m.

Councilors Present: John Abrams, Chuck Ring and Sherry Abraham.

Also Present: Vanessa Chavez, Legal Counsel, Steve Shepherd, Administrator and Estefanie Muller, Clerk-Treasurer.

2. PLEDGE OF ALLEGIANCE.

3. APPROVAL OF AGENDA.

MOTION: Councilor Abrams made a motion to approve the Agenda. Councilor Abraham seconded the motion.

VOTE: Councilor Abraham voted aye. Councilor Ring voted aye. Councilor Abrams voted aye. The motion carried.

At this time Councilor Rita Loy Simmons was present.

4. CLOSED SESSION.

As per motion and roll call vote, pursuant to NMSA 1978, 10-15-1 (H)(8), the following will be discussed in Closed Session.

A. Economic Development - Real Property Acquisition.

MOTION: Councilor Ring made a motion to go into Closed Session pursuant to NMSA 1978, 10-15-1 (H)(8). Councilor Abrams seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Abraham voted aye. Councilor Ring voted aye. Councilor Simmons voted. The motion carried.

Mayor Hill stated the record will reflect Mr. Scott McCall and Ms. Myra Pancrazio are present in the Closed Session.

MOTION: Councilor Abrams made a motion to come back into Open Session. Councilor Simmons seconded the motion.

VOTE: Councilor Abraham voted aye. Councilor Ring voted aye. Councilor Simmons voted aye. Councilor Abrams voted aye. The motion carried.

Councilor Abrams affirmed that Economic Development and Real Property Acquisition were discussed and no decisions were made.

Councilor Abraham affirmed that Economic Development and Real Property Acquisition

were discussed and no decisions were made.

Councilor Ring affirmed that Economic Development and Real Property Acquisition were discussed and no decisions were made.

Councilor Simmons affirmed that Economic Development and Real Property Acquisition were discussed and no decisions were made.

Mayor Hill affirmed that Economic Development and Real Property Acquisition were discussed and no decisions were made.

5. MOTION PER CLOSED SESSION.

MOTION: Councilor Abrams made a motion to move forward with the Economic Development and Real Property Acquisition that was discussed in Closed Session and that we call for Public Hearing at the earliest possible meeting to hear the Project Participation Agreement Ordinance. Councilor Simmons seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Simmons voted aye. Councilor Ring voted aye. Councilor Abraham voted aye. The motion carried.

6. ADJOURN.

MOTION: Councilor Ring made a motion to adjourn the meeting. Councilor Simmons seconded the motion.

VOTE: All Councilors voted aye. The motion carried.

Mayor Hill adjourned the meeting at 2:54 p.m.

PASSED, APPROVED and ADOPTED this 9th day of September, 2015.

Brad E. Hill, Mayor

ATTEST:

Estefanie B. Muller, CMC, Clerk-Treasurer

**MINUTES
TOWN OF EDGEWOOD
PLANNING & ZONING COMMISSION MEETING
AUGUST 18, 2015 AT 6:00 PM
EDGEWOOD COMMUNITY CENTER
27 E. FRONTAGE ROAD, EDGEWOOD, NM 87015**

1. CALL TO ORDER & ROLL CALL.

Madame Chair McGill called the meeting to order at 6:00 pm and asked for Roll Call. Commissioners present were: Dan Thompson, Pat Markley and Brad Gabel. Commissioners not present were: Leonard Navarre. Also present were: Steve Shepherd, Town Administrator, Attorney Bob White, and Bonnie Pettee, Planning Assistant.

2. APPROVAL OF AGENDA.

Commissioner Gabel questioned the sequence of the Call for Public Hearing that took place at the last meeting. He thought there was an extra step, being a discussion prior to the Call for Public Hearing.

Steve Shepherd explained a "call for Public Hearing" is really not required for a variance and there was no documentation dispersed.

Attorney White agreed with Mr. Shepherd that it was not necessarily required. Public Notices were sent out to the property owners and the meeting notices were posted as required.

MOTION: Commissioner Gabel made a motion to approve the agenda for tonight's meeting. Commissioner Markley seconded the motion.

VOTE: Commissioner Thompson voted aye. Commissioner Markley voted aye. Commissioner Gabel voted aye. Madame Chair Mc Gill voted aye. The motion carried.

3. APPROVAL OF MINUTES.

A. Draft Planning & Zoning Commission Meeting Minutes of July 7, 2015.

MOTION: Commissioner Thompson made a motion to approve the minutes of the July 7, 2015 meeting. Commissioner Gabel seconded the motion.

VOTE: Commissioner Thompson voted aye. Commissioner Markley abstained, due to his absence at the meeting. Commissioner Gabel voted aye. Madame Chair Mc Gill voted aye. The motion carried

B. Draft Special Planning & Zoning Commission Meeting Minutes of July 30, 2015.

MOTION: Commissioner Markley made a motion to approve the minutes of the July 30, 2015 meeting. Commissioner Thompson seconded the motion.

VOTE: Commissioner Thompson voted aye. Commissioner Markley voted aye. Commissioner Gabel abstained, due to his absence at the meeting. Madame Chair Mc Gill voted aye. The motion carried.

4. PUBLIC COMMENT: (Limited to 2 minutes per person)

Mr. John Bassett stated he had a problem with the notice of the Public Hearing. He owns property on the north side of I-40 across from the subject property. He did not receive a letter of Notice of the Public Hearing for the variance. Since the Early Neighborhood Notification and Recognition Ordinance N. 2006-2 was not followed correctly, the Public Hearing should be deferred until the proper notifications are complete.

Steve Shepherd stated that that his property was within the 500' radius.
Madame Chair McGill replied staff will check this out.

5. PUBLIC HEARING.

Legislative Procedure: Certification that public notice of this meeting has been posted as required.

Madame Chair McGill explained the Legislature procedure for this Public Hearing and asked if the Public Notice had been posted as required.

Steve Shepherd certified that it had.

Madame Chair McGill stated that she had received a call from the applicant regarding the proposed project. She relayed to the applicant she could not discuss this with him and referred him to Mr. Shepherd.

Commissioner Gabel confirmed that he had no ex parte communication or conflicts of interest.

Commissioner Thompson confirmed that he had no ex parte communication or conflict of interest.

Commissioner Markley confirmed that he had no ex parte communication or conflict of interest.

Madame Chair McGill asked if anyone would protest her participation in the Hearing. There were no protests.

Scott McCall, Myra Pancrazio, John Bassett, and Steve Shepherd were sworn in.

- A. CONSIDERATION OF A VARIANCE REQUEST FROM ZONING ORDINANCE No. 2014-02 FOR SETBACKS AND BUILDING HEIGHT AT #6 MARIETTA COURT.
- B. CONSIDERATION OF A VARIANCE REQUEST FROM SIGN ORDINANCE NO. 2009-02 FOR HEIGHT, NUMBER, SIZE AND TYPE OF SIGNS FOR #6 & #8 MARIETTA COURT.

Steve Shepherd presented the Staff report. He explained the variances are requested for a proposed 72 room hotel. Variances requested are: height of the building to 60', rear setback to 12 -13', and sign variances for 2 pylon signs, one being 70' tall, with 244.062 square feet in size along 1-40, and one similar to the Dollar Tree sign along Marietta Ct. He added that the Subdivision Ordinance and Landscape Ordinance would be added to the Finding of Fact as provisions that may be required.

Commissioner Gabel inquired about the discussions with the Santa Fe County Fire Department with regards to the height of the structure.

Mr. Shepherd replied that the height was not an issue for them. They were concerned about being able to access the windows on the backside of the building.

Commissioner Markley asked if a traffic study would be necessary.

Mr. Shepherd replied that DOT makes that determination; currently there is an acceleration lane, a deceleration lane, and a turning lane already in existence.

Mr. Scott McCall addressed the Commissioner and staff. He noted his deep roots in the community; being born and raised here. He explained that a feasibility study was done here a few years ago to see if a hotel was viable. Due to the lack of a sewer system in Edgewood at that time, it was deemed not feasible. However, he continued, now Edgewood is ready and in need of a hotel. He described the proposed hotel as upscale, with the design & structure being a requirement of the Choice Hotels prototype, with amenities the consumer is looking for. He explained his need for the height variance of the sign due to only one exit from the interstate for Edgewood. If a traveler was to miss the exit, they would continue on to the next city to meet their needs.

Commissioner Gabel expressed his appreciation for a complete presentation by the applicant. He asked for clarification on the rear set back.

Mr. McCall replied the requirement is 15'; he is asking for 12' based on what the architect felt would be reasonable and still allow for suitable parking for large vehicles.

Madame Chair McGill opened the Public Hearing to those sworn in.

Myra Pancrazio addressed the Commissioners and Staff. She is the Executive Director of Estancia Valley Economic Development and working with the Town of Edgewood to bring businesses to the Town. She spoke in favor of the hotel project.

John Bassett inquired about the Staff Report asking for clarification on Santa Fe County Fire Department's position regarding what has been proposed.

Mr. Mc Call replied that he has hired an architect who has drawn 16 other hotels in the area. He has spoken to the Fire Marshall about the design of the building. The Fire Marshalls concern is the ability to evacuate the guests and extinguish the fire quickly. The design of the building includes a 150' fire hose at each end. He affirmed that he would have an agreement/approval from the Fire Marshall prior to any construction.

Mr. Bassett asked of Staff how this project fits in with the Comprehensive Plan.

Madame Chair McGill replied that this project falls within our Economic Development Strategies. She cited from the "plan" page 74, Item 17; "targeting and recruiting new employers to locate in Edgewood, with emphasis on serving local needs and securing higher wage jobs."

Mr. Bassett stated in the last sentence of the Staff Recommendation, the word "may" should be changed to "shall", since they are our Ordinances.

Madame Chair McGill stated the word will be changed.

Commissioner Thompson asked if the easement behind the building could include other properties.

Steve Shepherd replied that the land behind the proposed hotel has a significant slope and would not be possible for an easement.

Mr. Bassett stated that he owns property within 500' from the proposed project and did not receive a Notice of Variance. Without proper notice the meeting should be stopped and deferred to a later date after all property owners have been notified.

Mr. Shepherd replied he did not realize the north side of I-40 was within 500'.

Attorney White added that all signs were posted properly, as well as letter distributed the property & business owners on the south side of I-40 according to required procedures. Mr. Bassett was aware of the meeting; he attended and testified. So, not receiving a letter should not be a problem for him. Attorney White continued stating that the Ordinance states it is the responsibility of the applicant to notify the adjacent property owners. There is no time limit on notification letters, only that it contains day, time and place.

A discussion ensued with regards to how to proceed. It was the consensus of the Commission to move forward with a motion.

MOTION: Commissioner Gabel made a motion to approve the application for variance pertaining to 6 & 8 Marietta Court, Edgewood, NM, Lot 18R & 19R, Edgewood Plaza Subdivision located in Section 28, Township 10 North, Range 7 East, Edgewood, Santa Fe County, NM under the Zoning Ordinance 2014-02:

- Approving a setback variance at the rear of the property to 12' subject to Santa Fe County Fire Department approval of a detailed development plan.
- Further, approve a building height variance not to exceed 60.
- Further to approve a variance under Sign Ordinance 2009-02, for pylon sign #2 providing for maximum height of 70' and face size of 244 square feet.
- Further, approval of a variance allowing placement of 2 pylon signs, per Sign Ordinance 2009-02, Section 4.C, with placement along the same frontage.
- No variance is required for sign #3 or the building sign #1.
- Future developments shall be subject to: Grading & Drainage 202-1, Zoning Ordinance 2014-02, Fire & Rescue Impact Fees 2014-09, Uniform Fire Code, and Subdivision Ordinance 2014-03.

Commissioner Thompson seconded the motion.

VOTE: Commissioner Thompson voted aye. Commissioner Markley voted aye. Commissioner Gabel voted aye. Madame Chair Mc Gill voted aye. Motion carried.

6. FINDINGS OF FACT FOR MINOR SUBDIVISION PLAT.

- A. Russell Fausnaugh at #96 Skyline Drive; Requesting a Minor Subdivision for Tract A, 2.499 acres, Lands of Huppertz/Marie, located in the SW ¼ of Section 35, T10N, R7E N.M.P.M., Edgewood, New Mexico.

Steve Shepherd presented the Findings of Fact for Minor Subdivision Plat.
Madame Chair McGill asked if there were any questions.
There were none.

MOTION: Commissioner Gabel made a motion to approve the Findings of Fact, Conclusions of Law and Recommended Order in the matter of Case 2015-SU, a minor subdivision plat for property located at 96 Skyline Drive, Tract A, Lands of Huppertz/Marie, SW ¼ of Section 35 T 10 N, R 7 E N.M.P.M. Edgewood, Santa Fe County, NM.
Commissioner Markley seconded the motion.

VOTE: Commissioner Thompson voted aye. Commissioner Markley voted aye.
Commissioner Gabel voted aye. Madame Chair McGill voted aye.
Motion carried.

Attorney White made recommendations for completing the Findings of Fact for the Public Hearing for Variance.

7. OLD BUSINESS.
None.

8. MATTERS FROM THE CHAIR AND COMMISSION MEMBERS.
None.

9. MATTERS FROM STAFF.
Steve Shepherd reported that he had called Santa Fe County regarding the Performance Based Setback. The person he needed to speak to was out of the office and will return on the 20th. He will follow up.
Bonnie Pettee commented on the New Mexico Municipal League Planning Conference being held on September 16 – 18, 2015. She asked Commissioners to respond by September 2, 2015 if they would like to attend.
Commissioners Thompson, Markley & Gabel stated they would not attend. Madame Chair McGill would like to attend.

10. CALENDAR UPDATE AND FUTURE AGENDA ITEMS.
Madame Chair McGill stated she would not be present at the September 1st meeting.
Commissioner Gabel will Chair the meeting.
Commissioner Gabel will not be present at the September 15th meeting.

11. ADJOURN.

MOTION:

Commissioner Markley made a motion to adjourn the meeting of August 18, 2015. Commissioner Thompson seconded the motion.

VOTE:

Commissioner Thompson voted aye. Commissioner Markley voted aye. Commissioner Gabel voted aye. Madame Chair Mc Gill voted aye. Motion carried.

Madame Chair McGill adjourned the meeting at 8:15 pm.

PASSED, APPROVED, and ADOPTED this 1st day of SEPTEMBER, 2015.

Kay McGill, Chairperson

ATTEST:

Leonard Navarre, Secretary

**DRAFT MINUTES
TOWN OF EDGEWOOD
PLANNING & ZONING COMMISSION MEETING
SEPTEMBER 1, 2015 AT 6:00 PM
EDGEWOOD COMMUNITY CENTER
27 E. FRONTAGE ROAD, EDGEWOOD, NM 87015**

1. CALL TO ORDER & ROLL CALL.

The meeting was called to order at 6:00 pm and Roll Call was taken.

Commissioners present were: Pat Markley, Dan Thompson, Leonard Navarre, and Brad Gabel. Commissioners not present were: Kay McGill. Others present were: Steve Shepherd, Attorney Robert White, and Bonnie Pettee.

Vice Chairman Brad Gabel chaired the meeting.

2. APPROVAL OF AGENDA.

MOTION: Commissioner Markley made a motion to approve the agenda as presented.
Commissioner Navarre seconded the motion.

VOTE: Commissioner Markley voted aye. Commissioner Thompson voted aye.
Commissioner Navarre voted aye. Vice Chairman Gabel voted aye. The motion carried.

3. APPROVAL OF MINUTES.

A. Draft Planning & Zoning Commission Meeting Minutes of August 18, 2015.

Vice Chair Gabel noted a number of errors in the minutes of August 18, 2015

MOTION: Commissioner Thompson made a motion to approve the Minutes of the August 18, 2015 meeting with corrections. Commissioner Markley seconded the motion.

VOTE: Commissioner Markley voted aye. Commissioner Thompson voted aye.
Commissioner Navarre abstained, as he was not at the meeting of August 18th.
Vice Chairman Gabel voted aye. The motion carried.

4. PUBLIC COMMENT: (Limited to 2 minutes per person)

Mr. John Bassett addressed the Commissioners and staff regarding a letter he had sent to them. He had not received a reply from anyone. He also inquired about conflicting statements in the written record of the meeting regarding whether there was a requirement to call for public hearing or not. Mr. Bassett suggested that for the next meeting the Commissioners go over the process and procedures and let the staff know what they want.

5. CONSIDERATION FOR ISSUES OF NOTICE IN VARIANCE REQUEST FOR #6 & 8 MARIETTA COURT.

Vice Chairman Gabel noted that during this discussion, they would not be rehearing the merits of the items discussed at the Public Hearing, only the process leading up to the

meeting. He added that the discussion may or may not lead up to Item #6 on the agenda, but that there needed to be a definite split between them.

Steve Shepherd explained that the noticing for the Public Hearing was imperfect, in that, not everyone was notified that should have been. He said that he tried to re-notice the meeting and apologized for over stepping his bounds. Mr. Shepherd stated that the thing to focus on here is the imperfect noticing and how it will affect the Findings of Fact and whether the Public Hearing needs to be re-heard.

Attorney White stated that, as Mr. Shepherd has pointed out, and as part of the discussion at the Public Hearing, one person, and maybe others were not notified. This leaves the discussion to the Commissioners. He suggested three options for the Commissioners to consider.

- a. Not approve the Findings of Fact and re-hear the request, with proper notification;
- b. Stand with their decision from last meeting, which could possibly set the stage for a "Collateral Attack", which could happen as late as 6 months down the road.
- c. The Commissioners approved the variances knowing there were deficiencies, but not necessarily to the extent of them. This would provide grounds for appeal. If it were to be appealed, it would go to Council and would be heard as Do Novo and started over. Council's decision would not be based on anything discussed at the Planning & Zoning meeting.

Vice Chairman Gabel stated he would not like to delay this any longer than necessary for the applicant.

Commissioner Navarre asked if re-hearing would require re-application.

Attorney White replied no, just re-notification and continuing the hearing at later date.

Commissioner Markley commented that he felt the best solution was to deny the variance and let it go to Council.

Vice Chairman Gabel stated they could make a motion to disapprove the Findings of Fact, but was sure on how to reverse their decision.

Attorney White explained that their previous decision is not final until the Findings of Fact & Conclusion of Law are approved. The Commission can keep their decision and deny the Findings based on the notice requirements not being met.

Vice Chairman Gabel recommended that the Commissioners continue this case until the next meeting and approve it then.

6. FINDINGS OF FACT FOR VARIANCE REQUEST FOR #6 & #8 MARIETTA COURT

A. 6 Marietta Court, Lot 19R, Edgewood Plaza Subdivision located in Section 28, Township 10 North, Range 7 East, Edgewood, Santa Fe County, New Mexico.

8 Marietta Court, Lot 18R, Edgewood Plaza Subdivision, located in Section 28, Township 10 North, Range 7 East, Edgewood, Santa Fe, County, New Mexico.

Vice Chairman Gabel noted two particular areas of concern, that being #2. Notification and #5 Conclusions of Law. No motion was cited into the Conclusions of Law. He felt the motion should have been added since there were several conditions listed.

Vice Chairman Gabel continued stating he was torn with the proceedings of the Public Hearing, testimony from Mr. Bassett, and Legal Counsel's noticing issues. He stated that he thought "noticing" was best effort.

Attorney White replied noticing is not best effort. It is mandatory and required. In discussion with the Administrator, he was unsure if more than one property owner within the 500 foot requirement was not notified. Attorney White continued stating that even if the one property owner did not receive an actual letter of notification, the fact that he knew about the meeting and appeared would negate the lack of notice to that property owner.

Vice Chairman Gabel asked if it had been determined if the noticing was a broader issue now. Mr. Shepherd confirmed that it was.

Vice Chairman Gabel explained the options available to the Commissioners were to defer the consideration of the Findings of Fact to September 15th, at which time a subsequent Public Hearing would be held, after proper notification. The second option is to deny the variance, changing our prior decision and allowing the case to go directly to appeal.

Mr. Shepherd stated that having a Public Hearing on September 15th would not give him enough time for noticing. A new hearing would require a Special meeting.

MOTION: Commissioner Markley made a motion to defer to a following Public Hearing, Case #2015-01V, Request for Variance at 6 & 8 Marietta Court so proper notice can be given and the Finding of Facts approved. Commissioner Thompson seconded the motion.

Commissioner Markley amended the motion to allow the Public Hearing to be heard at a Special Meeting, date to be determined.

Commissioner Thompson seconded the amendment to the motion.

VOTE: Commissioner Markley voted aye. Commissioner Thompson voted aye. Commissioner Navarre abstained. Vice Chairman Gabel voted aye. The motion carried.

Vice Chairman Gabel asked staff to notify the Commission of the nearest date possible to have the Special meeting.

Mr. Shepherd asked if the 22nd of September would work for all.

All of the Commissioners agreed that the Special Meeting could be held on the 22nd of September.

Attorney White recommended the Commission make another motion to reopen the request for Variance.

MOTION: Commissioner Markley made a motion to reopen the Public Comments section for the Variance request, Case 2015-01V, 6 & 8 Marietta Court for Public Hearing on September 22, 2015.

Commissioner Thompson seconded the motion.

VOTE: Commissioner Markley voted aye. Commissioner Thompson voted aye. Commissioner Navarre voted aye. Vice Chairman Gabel voted aye. The motion carried.

7. OLD BUSINESS.

Mr. Shepherd reported that he had spoken to Penny Ellis-Green with Santa Fe County regarding Performance Based Setbacks. Santa Fe County does use the Performance Based Setback allowance for some commercial buildings, requiring smaller setbacks and landscaping between buildings.

Vice Chairman Gabel asked if she would be willing to attend our meeting and speak with us. Mr. Shepherd stated he would invite her.

Commissioner Markley inquired about the new Zoning Ordinance he was given this evening. Mr. Shepherd cited the changes in the ordinance; Section 14, B.2b. change made to language regarding dwelling units, 12 allowed instead of 4; and added Medical Offices to the Permissive Uses.

8. MATTERS FROM THE CHAIR AND COMMISSION MEMBERS.

Vice Chairman Gabel suggested that as a future agenda item, the Commission could discuss motions and the content of what needs to be included. He added the importance of sharpening their skills by knowing what was required. He also noted that in the matter of processing applications it was important to consistently apply the matter of due process. With the new membership changes, he would like to take the time and learn the processes and try to avoid mistakes.

9. MATTERS FROM STAFF.

None

10. CALENDAR UPDATE AND FUTURE AGENDA ITEMS.

Special Meeting on September 22, 2015

Vice Chairman Gabel asked if there was an update on the joint training.

Mr. Shepherd replied not yet. He will check with Council again.

11. ADJOURN.

MOTION: Commissioner Navarre made a motion to adjourn tonight's meeting.
Commissioner Markley seconded the motion.

VOTE: Commissioner Markley voted aye. Commissioner Thompson voted aye.
Commissioner Navarre voted aye. Vice Chairman Gabel voted aye. The motion carried.

Vice Chairman Gabel adjourned the meeting of September 1, 2015 at 7:01 pm.

PASSED, APPROVED and ADOPTED this 22 day of SEPTEMBER, 2015.

Brad Gabel, Vice Chairman

ATTEST:

Leonard Navarre, Secretary

28 August, 2015

The Parks and Recreation Advisory Committee (PRAC) has two members whose one year terms are completed. One of which has resigned, Clark McDuell, as of 17 August 2015.

Ordinance 2007-14 states that "Appointments, re-appointments and vacancies shall be filled by Mayoral appointment with Council approval."

Below are the term limits and whether living in incorporated or territory proximate to town.

Requested actions:

1-Put an action item on the next Council agenda to re-appoint Ray Seagers to the PRAC.

2-Present Clark McDuell with a Certificate of Appreciation for serving on the PRAC? **Provided separately.**
He has resigned.

3-Appoint Philip Silva to replace Clark McDuell as a member of the PRAC. His resume will be forthcoming.

4-Appoint two alternate persons.

Town of Edgewood Parks and Recreation Advisory Committee; Members sworn in: August 4, 2014

Member Terms of Office:

Live in incorporated Town of Edgewood

One year:

Clark McDuell
Ray Seagers

Yes 37B Moonlight Meadow, Edgewood
No 30 Lucas Road, Edgewood
(Yes Business address; 1917 Old US 66, Edgewood)

Two years:

Roxanne Carpenter
Al Humble

Yes 5 Jada Lane, Edgewood, NM 87015
No 12 Crestview Ln, Edgewood

Three years:

Patrick Wagner
Paul McClure

Yes 11 Jada Lane, Edgewood, NM 87015
Yes 69 Walker Rd

At least three members must live in the incorporated part of town.

Ordinance 2007-14, "The Mayor with the advice and consent of the Council shall nominate the two alternates." One alternate must be in the town limits, the other may reside in territory proximate to the incorporated Town of Edgewood.

**TOWN OF EDGEWOOD
ORDINANCE NO. 2015-07**

**AN ORDINANCE APPROVING AN ECONOMIC DEVELOPMENT PROJECT
ENTITLED COMFORT INN; PROVIDING FOR BASIC INFRASTRUCTURE TO
ACCOMMODATE CONSTRUCTION OF HOTEL AND FOR COSTS OF
INFRASTRUCTURE FOR A HOTEL IN THE TOWN OF EDGEWOOD**

WHEREAS, pursuant to the Local Economic Development Act, NMSA 1978, §§ 5-10-1 through 5-10-13, the Town of Edgewood ("Town") has adopted Ordinance No. 2003-14, entitled "Economic Development Plan Ordinance," also known as the "Local Economic Development Act Ordinance" ("LEDA Ordinance"), for the purpose of permitting public support of economic development; and

WHEREAS, the LEDA Ordinance sets forth the purpose of allowing public support of economic development to foster, promote and enhance local economic development efforts through the use of project participation agreements with qualifying entities while continuing to protect against the unauthorized use of public money and other public resources, and to enter into joint powers agreements with other local governments to plan and support regional economic development projects; and

WHEREAS, Aspire Hotels LLC, a New Mexico limited liability company ("Aspire Hotels") proposes to develop real property in the Town for the purpose of building and operating a hotel; and

WHEREAS, the Town wishes to provide project assistance to Aspire Hotels in the form of infrastructure and costs as an economic development project ("Project"), in an effort to enable Aspire Hotels to construct the hotel; and

WHEREAS, Aspire Hotels has submitted a LEDA application to the Town, requesting grant funds in the amount of \$73,500.00 and substantive contributions in an amount not to exceed \$95,285.00, for a total contribution in an amount not to exceed **One Hundred Sixty-Eight Thousand Seven Hundred and Eighty Five Dollars (\$168,785.00)**, said contributions making the construction of the hotel economically feasible; and

WHEREAS, the Town has determined that providing these project assistance contributions to Aspire Hotels will facilitate construction of the hotel and that construction and operation of the hotel in the Town of Edgewood will serve the best interests of the citizens of Edgewood and will more than compensate for contributions provided.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF EDGEWOOD as follows:

Section 1. Aspire Hotels has submitted an application to the Town pursuant to the Town of Edgewood LEDA Ordinance No. 2003-14. The Town has reviewed and approved the

application as having met the criteria set forth therein, and Aspire Hotels has established itself as a qualifying entity and has addressed the following criteria:

- a) Aspire Hotels has complied with the LEDA Ordinance by proposing to provide a public benefit to the residents of the Town in the following respects:
 - i) generating approximately 10 new primary jobs at the hotel at income levels sufficient to avoid diluting the current economic nature of the Town;
 - ii) generating property taxes and gross receipts taxes sufficient to exceed the total contribution of the Town;
- b) Aspire Hotels will have established its commitment to the community through a Project Participation Agreement (“PPA”) by agreeing to return the project assistance provided by the Town in the event that it does not complete construction of the hotel.
- c) The benefit to the community of the Project and the activity of Aspire Hotels is demonstrated by projected economic activity that leverages the public support during the Project period.

Section 2. The Town and Aspire Hotels shall, upon approval of the Project as evidenced by the passage of this Ordinance, enter into a Project Participation Agreement which Agreement shall include, but not be limited to, the following:

- a) The economic development goals of the Project;
- b) The standards by which to measure furtherance by the Project of the economic development goals of the Town;
- c) The rights and responsibilities of the parties, including specifically defining the contributions of the Town and of Aspire Hotels;
- d) Standards for regular performance reviews of the Project by the Town and the specific measurable objectives upon which performance evaluations of the Project shall be based;
- e) A schedule and audit or review procedures for the Project and facility development and performance goal attainment in which time shall be of the essence;
- f) The security to be provided to the Town;
- g) The default and cure provisions and such other procedures by which the Project can be terminated by the Town and the public investment recovered;

- h) The time period for which the Town, pursuant to Town's participation in the Project and the development of the facility, shall retain an interest in the Project, whether secured or otherwise, and the amount of that interest; and
- i) Any other requirements imposed by state law, Town ordinance, rule or regulation not specifically identified in this ordinance.

Section 3. The application of Aspire Hotels for project assistance is hereby approved, consistent with the terms of this ordinance and a Project Participation Agreement, referenced hereinabove to be negotiated by the Town or its designee and Aspire Hotels, and submitted to the Governing Body for approval.

Section 4. Severability Clause. Should any section, paragraph, clause or provision of this ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 5. Repealing Clause. All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed only to the extent of such inconsistency. This repealing clause shall not be construed to revive any ordinance or resolution, or part thereof, heretofore repealed.

Section 6. Effective Date. This ordinance shall become effective five (5) days following publication either in its entirety or by title and a general summary of the subject matter contained in the ordinance.

ADOPTED, APPROVED AND PASSED by the Governing Body this 9th day of September, 2015.

Brad E. Hill, Mayor

ATTEST:

Estefanie B. Muller, CMC, Clerk-Treasurer

PROJECT PARTICIPATION AGREEMENT

This Project Participation Agreement ("Agreement") is made and entered into as of September 9, 2015, by and between the Town of Edgewood, a New Mexico municipal corporation ("Town") and Aspire Hotels LLC ("Developer").

RECITALS

- A. Pursuant to the Local Economic Development Act, NMSA 1978, §§ 5-10-1 through 5-10-13, the Town adopted Ordinance No. 2003-14, entitled "Economic Development Plan Ordinance ("LEDA Ordinance")," authorizing Town to consider applications for economic development assistance.
- B. Developer has submitted an application to Town for assistance under the LEDA Ordinance. In the application, Developer has proposed an Economic Development Project ("Project") and has proposed that the Project acquire real property which it will own and develop in accordance with the application and for which public assistance funds and substantive contributions will be applied toward improvements of the real property ("Property" or "Facility").
- C. Town has adopted Ordinance No. 2015-07, finding that Developer is a qualifying entity as defined in NMSA 1978, § 5-10-3 and LEDA Ordinance § 4.2 and approving this Project Participation Agreement as meeting the requirements of the LEDA Ordinance.
- D. Town desires to contribute to the Project with Grant Funds in an amount not to exceed \$73,500.00 and with Substantive Contributions of approximately \$95,285.00;
- E. Developer's Substantive Contributions support the objectives of LEDA as follows:
 - 1) Increased job and income opportunities by proposing to generate ten (10) new full-time equivalent (FTE) primary jobs in the Town of Edgewood during the term of this agreement with an average salary of approximately \$15,600.00 based on the minimum wage (2,080 Hours x \$7.50 or the applicable minimum wage) and a total annual payroll of approximately \$156,000.00. Each FTE shall earn the Developer up to \$2,000.00 in credit towards satisfying the terms of the agreement; and
 - 2) Generation of Town of Edgewood gross receipts taxes in the approximate annual amount of \$26,600.00; and
 - 3) Generation of property taxes attributable to the Town of Edgewood in the approximate annual amount of \$3,718.00.
- F. Developer will provide security for the Grant Funds and Substantive Contributions in such form and amount as to secure its obligations and the public assistance.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals and the covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Section I. Contributions of Town.

A. Cash Contribution. Town shall contribute cash toward construction of the building and improvements as follows:

1. **Grant Funds.** Grant Funding of 1.50 per cent of the construction cost in a total amount not to exceed \$73,500.00. This contribution is based upon the projected collection by Town of gross receipts taxes at the rate of 1.50 per cent, assessed on construction costs of approximately \$4, 900,000.00. Only gross receipts taxes actually collected by the Town from the construction of the Project shall be eligible to be paid to the Developer, and the Town shall have no obligation to distribute any Grant Funding until gross receipts taxes have been collected for this Project. Town Staff will perform this calculation upon receipt of documentation of construction expenditures incurred and paid by the Developer as follows:

Example: \$4, 900,000.00 x 1.50% = \$73,500.00

2. **Construction Plan.** Prior to commencing construction, Developer shall submit to Town the designs and construction specifications ("Construction Plan") for Town's review and approval. Approval by Town pursuant to this subsection shall only constitute approval pursuant to this Agreement for purposes of administering Town's contribution, and shall neither imply nor constitute approval under applicable statutes, ordinances, and regulations, all of which shall remain the obligations of Developer.
3. **Disbursement.** Town shall release to Developer Grant Funds after the funds are confirmed to be received by the Town.
4. **Contingencies.** The disbursement of the Grant Funds described in this section shall be contingent upon the following:
 - a) Developer shall obtain title to the property, duly executed and filed of record with the Santa Fe County Clerk's Office;
 - b) Developer shall execute or otherwise provide the security agreements specified herein;

B. Substantive Contributions. Town recognizes that various development fees, reviews and approvals are related to and necessary for the provision of services related to public works infrastructure improvements that are essential to the location of the business. Pursuant to the authority of NMSA 1978, § 5-10-3(B), the Town will waive the following

development fees in the approximate amounts shown, or pay said fees on behalf of Developer to the person or entity providing the service (collectively referred to as "Substantive Contributions"):

1. Grading and Drainage Review	(not to exceed) \$ 7,500.00
2. Sign Permit Application Fee (4 signs)	100.00
3. Variance Application Fee	50.00
4. Development Review Fee	50.00
5. Access Fee: Town Permit	35.00
6. Required Traffic Studies	(not to exceed) 8,300.00
7. Wastewater Fees: Application Fee	100.00
8. Wastewater: Service Tap Fee	750.00
9. Wastewater: Capacity Fee	<u>78,400.00</u>
Total:	\$ 95,285.00

- C. **Total Contribution.** Town's total of Substantive Contributions and Grant Funds shall not exceed \$168,785.00.

Section II. Contributions of Developer. Developer will materially participate by acting as developer and taking responsibility for full realization of the Project, together with the following Performance Measures:

- A. Developer shall obtain title to the real property, perform such improvements to the real property as are necessary for its hotel operation, and shall obtain such financing as is necessary for procurement of construction services, equipment, materials and other necessary elements of the Project;
- B. Developer shall create full-time equivalent jobs (i.e.: 2,080 hours annually each, employed by and salaries paid, utilizing the New Mexico Minimum Wage, by Developer or its affiliates) on or near the Project property by the anniversary dates of the signing of this Agreement as described above.

Compliance with this paragraph is calculated annually as follows as follows:

Example:

Approximately \$156,000.00 Total Annual Wages, based on the current minimum wage, for New FTEs/\$15,600.00 Annual Wages for an FTE= 10 New FTEs x \$2,000.00 = \$20,000.00 Annual Credit to the Developer to Satisfy the Agreement

- C. Developer shall generate Town of Edgewood gross receipts taxes from the Project in the amounts determined as follows:

Developer will report annual taxable sales to the Town, and the annual calculation of credit to the Developer will be made by Town Staff.

- D. Developer shall generate property taxes attributable to the Town of Edgewood in the amounts determined as follows:

Developer will report the full value and taxable value of the property on an annual basis to the Town, and the annual calculation of credit to the Developer will be made by the Town.

- E. Developer shall grant to the Town an easement for sewer line extension satisfactory to the Town, and for additional infrastructure as the Town deems necessary and appropriate. The location of the easement shall be agreed to by the Town and the Developer.

Section III. Performance Review and Measurement. Developer shall, within ninety (90) days of the end of each year during the term of this Agreement, provide Town with a written report of its progress in achieving the Performance Measures required by Section II herein. In addition to the provision of said written report by Developer, Town may request an audit performed by Town or by its designee to evaluate whether Developer has achieved the Performance Measures. Developer shall fully cooperate in the performance review and audit process by making all of its personnel, employees, and books and records available to Town at all reasonable times upon request. All information regarding Developer shall be treated in confidence to the fullest extent allowed by New Mexico law and subject to the requirements of the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 *et seq.*

Section IV. Security. Developer shall furnish the following security for its substantive contribution:

- A. An executed purchase agreement for the real property in Santa Fe County, New Mexico;
- B. A Promissory Note payable to Town in the amount of the total contribution by Town specified in section 1(c) above;
- C. A fourth-position lien for the Town on the real property of the Project.

Section V. Term. The term of this Agreement shall commence on the effective date and continue for five (5) years unless terminated sooner as provided herein. Developer has the right to return the Grant Funds and fees, in full, at any time before the end of the term and terminate this Agreement earlier.

Section VI. Termination and Recovery of Investment.

- A. Events of Default.** The following events shall constitute events of default under this Agreement:
- 1. Failure of Developer to fulfill, in whole or in part, any Performance Measure or other obligation required by this Agreement;

2. Cessation by Developer of its hotel operations on the Project property, or reduction of any of those operations on the Project property to a level below that required by the Performance Measures;
 3. Filing by Developer or any creditor of a petition, case, proceeding, or other action under any debtor relief law or seeking appointment of a receiver, trustee, custodian, or liquidator of Developer, or the Project property or seeking to effect a suspension or having the effect of suspending any of the rights of Town granted or referred to in this Agreement, and a) Developer admits, acquiesces in, or fails to contest diligently the material allegations thereof; b) the petition, case, proceeding, or other action results in entry of an order for relief or order granting relief sought against Developer; or c) the petition, case, proceeding, or other action is not permanently dismissed or discharged on or before ninety (90) days following the date of its filing;
 4. The abandonment by Developer of all or a portion of the Project property or any property financed in whole or in part by the proceeds of the Grant Funds and fees;
 5. The discovery by Town that any representation, warranty, or covenant made by Developer in connection with this Agreement was or has become false, materially misleading, erroneous, or breached in any material respect;
 6. Developer's assignment, sale, hypothecation, or transfer of a majority interest in its business entity, whether in a single transaction or a series of transactions. If Developer desires to assign, sell, hypothecate, or transfer a majority interest in its business entity, whether in a single transaction or a series of transactions, before expiration of this Agreement, Town retains the right to reject any and all assignments, sales, hypothecations, or transfers of any interest in Developer's business entity until, in the sole discretion of Town, adequate assurances are given that the assignee, buyer, hypothecatee, or transferee is a qualifying entity under the Town of Edgewood Economic Development Plan (LEDA) and that terms of this Agreement will be satisfied by the assignee, buyer, hypothecatee, or transferee.
- B. Notice of and Response to Default.** Upon the occurrence of an event of default by Developer specified in this Agreement, Town shall notify Developer in writing that an event of default has occurred. Within Twenty-One (21) days of the receipt of such notice, Developer shall:
1. Cause the default to be cured; or
 2. Furnish a written response indicating:
 - a) The factors which caused or contributed, in whole or in part, to the occurrence of default;
 - b) The measures Developer has undertaken to avoid the reoccurrence of default in the future;

- c) Whether any Performance Measure not achieved can still be achieved in a timeframe acceptable to Town; and
- d) What further action Developer plans to take to achieve the Performance Measure in a timeframe acceptable to Town.

C. Remedies of Town. The Town staff shall review the response furnished by Developer and within Twenty-One (21) days from the receipt of such response, recommend to the Town Council whether to accept Developer's cure or response or to terminate this Project Participation Agreement. Developer shall have an opportunity to make a presentation to the Town Council at any meeting where such recommendation will be acted upon. The Town Council, upon establishing that an event of default has occurred and has not been cured or that Developer has not satisfied the assurances of performance, may:

1. Terminate this agreement;
2. Demand immediate and full repayment of the amount of the Grant Funds disbursed and substantive contributions;
3. Foreclose upon, collect and recover all collateral pledged by Developer as security for the Grant Funds and substantive contributions, including, but not limited to, the Promissory Note and Second-Position Lien; and

The Town shall pro-rate the amounts due and to be collected in percentages equal to the percentages of satisfactory performance of Developer's Contributions as specified in section II herein.

The selection of any remedy by Town shall not operate to prevent Town from exercising any and all remedies available herein or as otherwise available under law.

Section VII. Miscellaneous Provisions.

A. Insurance. Developer shall during the term of this Agreement maintain at Developer's sole expense, with licensed insurers subject to approval by Town, the following policies of insurance in form and substance satisfactory to Town:

1. **Property Insurance.** A Builder's Risk Completed Value Hazard Insurance policy, including, without limitation, such endorsements as Town may require, insuring Town against damage to the building in an amount acceptable to Town;
2. **Liability Insurance.** A policy of comprehensive general liability insurance with limits as required by Town, insuring against liability for injury and/or death to any person and/or damage to any property occurring on the building and/or in the building from any cause whatsoever.

B. Obligation to Perform. The failure of Town to insist, in any one or more instances, upon performance of any of the terms or covenants of this Agreement shall not be construed as a waiver or relinquishment of Town's right to the future performance of any such terms and covenants, and the obligations of Developer with respect to such future performance shall continue in full force and effect.

C. Excusable Delay. Developer and Town shall be excused from performance for any period that they are prevented from performing any obligation hereunder in whole or in part as a result of an act of God, war, civil disturbance, epidemic, court order, or other cause beyond their reasonable control, and such nonperformance shall not be a ground for termination of this Agreement but shall not by itself extend the term of this Agreement.

D. Notices. All notices and communications required or permitted under this Agreement (including change of address and facsimile or telephone number set forth below) shall be in writing and shall be deemed given to, and received by, the receiving party:

1. When hand-delivered to the street address of the receiving party set forth below;
2. When sent by facsimile transmission to the facsimile number of the receiving party set forth below, with successful transmission verified;
3. One (1) day after deposit with a national overnight courier addressed to the receiving party at the street address set forth below; or
4. Upon the date of receipt after deposit in the U.S. Mail, certified mail, return receipt requested, postage prepaid, addressed to the receiving party at the mailing address set forth below.

To Town:

Town Administrator
PO Box 3610
1911 Historic Route 66
Edgewood, NM 87015
(505) 286-4519 (Facsimile)

To Developer:

Aspire Hotels LLC
c/o Scott McCall, Presiding Officer
PO Box 687
Edgewood, NM 87015
(505)-832-1282 (Facsimile)

E. Amendment. This Agreement shall not be altered, changed, or amended other than by a written instrument executed by the parties.

- F. Assignment.** Developer shall not assign or transfer any rights, obligations, duties, or other interest in this Agreement, or assign any claim for money due under this Agreement, without the prior written consent of Town, which consent may be withheld in Town's sole and absolute discretion.
- G. Appropriations.** The performance by Town of any of the terms, covenants, or conditions in this Agreement that Town is obligated to perform shall be subject to the availability of appropriated funds that may be lawfully used for such purpose.
- H. Partnership.** Nothing contained in this Agreement shall be construed as creating or establishing a joint venture or partnership between Town and Developer.
- I. Indemnification.** Developer shall hold harmless, indemnify and defend Town, its officials, employees, agents, successors, and assigns from any and all liabilities, damages, claims, suits, or actions, of any kind or nature, arising out of Developer's operations or this Agreement, including all costs, expenses, attorneys' fees (including attorneys' fees incurred in connection with, and/or staff attorneys' salaries allocable to, any action Town takes to enforce this Agreement) and any judgment or settlement thereof.
- J. Authority.** The individual(s) signing this Agreement on behalf of Developer represent and warrant that they have the power and authority to bind Developer, and that no further action, resolution or approval from Developer is necessary to enter into a binding contract.
- K. Incorporation.** Each and all of the recitals set forth at the beginning of this instrument, and any exhibits referenced herein and attached hereto, are incorporated herein by this reference.
- L. Calculation of Time.** Any time period herein calculated by reference to "days" means calendar days, i.e., including Saturdays, Sundays and holidays as observed by the State of New Mexico; provided, however, that if the last day for a given act falls on a Saturday, Sunday or such observed holiday, the day for such act shall be the first day following such Saturday, Sunday or observed holiday that is not a Saturday, Sunday or such observed holiday.
- M. Interpretation.** The captions and paragraph headings of this Agreement are not necessarily descriptive, or intended or represented to be descriptive, of all the terms there under, and shall not be deemed to limit, define, or enlarge the terms of this Agreement. Whenever used herein, unless otherwise indicated by the context, the singular shall include the plural, the plural shall include the singular, the use of any gender shall include all genders, and the use of the words "include" and "including" shall be construed as if the phrases "without limitation" or "but not limited to" were annexed thereafter. The parties were, or had ample opportunity to be, represented by counsel, and as such this Agreement shall not be interpreted for or against either party based on authorship. The use herein of "Developer" shall, where reasonable in the best interests of Town, be

deemed to indicate and/or include all of the owners, partners, members, and employees of Developer; provided, however, that such interpretation shall not be used in connection with Developer's indemnity obligations contained in this Agreement.

- N. Applicable Law.** Each party shall perform its obligations hereunder in accordance with all applicable laws, rules, and regulations now or hereafter in effect. This Agreement shall be governed by the laws of the State of New Mexico (without giving effect to the State of New Mexico's choice of law provisions). The First Judicial District Court of Santa Fe County shall have exclusive jurisdiction, including venue, over the parties and the subject matter of this Agreement. Developer hereby waives the right to challenge such jurisdiction and venue.
- O. Severability.** If any terms of this Agreement, or the application of such terms to any circumstance, person, or entity, shall be held illegal, invalid, or unenforceable, the remainder of this Agreement, or the application of such terms to persons or circumstances other than those to which it is held illegal, invalid, or unenforceable, shall not be affected; provided, however, that the remainder of this Agreement is still capable of performance in substantial accordance with the original intent of the parties.
- P. Entire Agreement.** This Agreement entered into by and between the parties contains the entire understanding of the parties with respect to the subject matter hereof, and reflects all agreements and commitments made prior to the date hereof with respect to this Agreement by Town and Developer. There are no other oral or written understandings, terms or conditions, and neither Town nor Developer has relied upon any representation or statement, express or implied, that is not contained in this Agreement. Any modification of this Agreement and the understandings contained herein shall be in writing and executed by Town and Developer.

IN WITNESS WHEREOF, the parties have entered into this Project Participation Agreement effective as of the date first written above ("Effective Date").

TOWN OF EDGEWOOD

Brad E. Hill, Mayor

Attest:

Estefanie B. Muller, CMC, Clerk-Treasurer

Approved as to form:

Town of Edgewood Attorney

DEVELOPER

Scott McCall, Presiding Officer for Aspire Hotels LLC

PERSONNEL ORDINANCE 2003 5

2.28.050 Recruitment and Hiring.

A. Purpose and Policy. It shall be the policy of the Town to recruit, select and promote employees on the basis of knowledge, skills and abilities regarding their jobs, regardless of race, sex, age, creed, national origin or political affiliation.

B. Procedures.

1. When a position becomes vacant or whenever a new position is to be created, an Employee Requisition form shall be completed by the supervisor and transmitted to the Clerk-Treasurer's office.
2. The Clerk-Treasurer will then be responsible for completing a "Notice of Position" form, which shall include a job description. Before to the posting of the Notice of Position form, the salary shall be determined by the appropriate job description and shall be approved by the Town Council. This form shall be distributed and posted in the Town Offices and on other bulletin boards in local centers and community buildings. This form shall be posted for a minimum period of five working days before filling the vacancy or new position. If appropriate, advertisement of a job vacancy may be made in employment agencies, trade journals or the appropriate news media. Casual labor can temporarily fill any vacancy.

C. Application.

1. Application Procedure. Each applicant for employment with the Town shall obtain the required form and fill it out completely. Any false statement made on the application shall be grounds for rejection or automatic dismissal from employment.
2. Application Retention. Applications shall be accepted only for approved vacant positions or designated standing files. Standing file applications remain in an active file for six months. Persons desiring to extend this active status may do so by requesting extension from the Clerk-Treasurer.
3. General Requirements. Evidence of job performance and capability, experience, education, training, skills and other abilities shall be carefully considered in evaluating the qualifications of applicants.
4. Basic Qualifications. Basic qualifications and other criteria for employment shall be contained in the job description for each position. Qualifications and criteria for employment shall include minimum requirements for training, education, skills and experience relating particularly to that individual position.
5. Testing. Performance or other tests may be required by the Town to ascertain competency for the position. Mastery of standards for operations may be required.
6. Interview. Applicants shall be interviewed to further determine qualifications for the position.
7. Non-Discrimination. The Town makes every effort to see that its policies:
 - a. Do not discriminate on the basis of race, age, handicap, color, sex, religion, political affiliation or marital status;
 - b. Do not grant special favors to any employee or group of employees. Individuals will be considered for appointment on the basis of bona-fide occupational qualifications only.
8. Basis for Final Selection. Approval of the final selection for a position will be made by the Town Council upon recommendation of the Mayor and Department

MOTION: Councilor Abraham amended her to motion to identify Church Road, Venus Road and Dinkle Road for paving improvements. Councilor Simmons seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Simmons voted aye. Councilor Abraham voted aye. The motion carried.

16. MATTERS FROM THE ADMINISTRATOR.

A. Approval to Advertise for a Receptionist-Secretary.

MOTION: Councilor Ring made a motion to approve the advertisement with discussion.

Councilor Ring stated the Administrator did not need to come to Council for a budgeted vacancy in the future. Council would continue to approve the hiring. Mayor Hill and the rest of the Governing Body agreed.

VOTE: Councilor Abraham voted aye. Councilor Simmons voted aye. Councilor Ring voted aye. The motion carried.

17. ANNOUNCEMENTS and/or CALENDAR REVIEW.

A. Regular Council Meeting - August 20, 2014 @ 6:30 P.M.

B. Regular Council Meeting – September 3, 2014 @ 6:30 P.M.

C. New Mexico Municipal League Annual Conference – August 27-29 in Albuquerque.

D. Run, Rally, Rock – Saturday, August 9, 2014, Parade beginning at 9:00 A.M.

NOTE: The Municipal Offices will be closed on Monday, September 1, 2014 in observance of Labor Day.

18. FUTURE AGENDA ITEMS.

A. Public Input with Intent to Adopt Proposed Ordinance No. 2014-05 “Creating a Planning & Zoning Commission”. (Council Meeting of August 20, 2014).

B. Public Input with Intent to Adopt Proposed Ordinance No. 2014-06 “Establishment of an Animal Welfare Advisory Committee”. (Council Meeting of August 20, 2014).

C. Public Input with Intent to Adopt Proposed Ordinance No. 2014-07 Uniform Traffic Ordinance by Reference. (Council Meeting of August 20, 2014).

D. Presentation by Andrea Corvin and Barbara Hambek on Town of Edgewood Library Events.

E. Request for Conditional Use Permit for the East Mountain Vineyard Church located at #1 Eunice Ct.

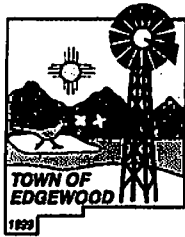
19. CLOSED SESSION.

As per motion and roll call vote, pursuant to NMSA 1978, 10-15-1 (H)(7) the following will be discussed in Closed Session.

A. Pending Litigation

MOTION: Councilor Abraham made a motion to go into Closed Session pursuant to NMSA 1978, 10-15-1 (H)(1) Pending Litigation. Councilor Ring seconded the motion.

____ Initials



TOWN OF EDGEWOOD

Where the Mountains Meet the Plains

1911 Historic Route 66
P.O. Box 3610
Edgewood, NM 87015
Phone: (505) 286-4518 Fax (505) 286-4519
www.edgewood-nm.gov

August 3, 2015

Ms. Rebecca Sanchez
P.O. Box 1216
Estancia, New Mexico 87016

Dear Ms. Sanchez:

The Town of Edgewood is honored you have accepted the position of Secretary-Receptionist under the following conditions:

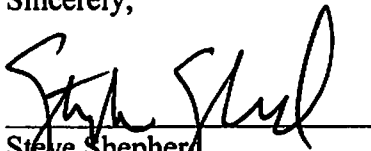
- Pay Rate: \$12.00 per hour
- Probation Period: Six Months
- Drug Test: Pending
- Background Check: Pending
- Full-Time Status: 40 hours per week
- Benefits: Personnel Ordinance No. 2003015

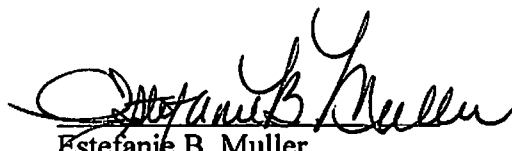
You are requested to attend the Council Meeting of August 19, 2015 @ 6:30 P.M. for introduction to Mayor Hill and the Town Council.

Employee orientation has been scheduled for August 5, 2015 with the Town Clerk.

Welcome to our team!

Sincerely,


Steve Shepherd
Administrator


Estefanie B. Muller
CMC, Clerk-Treasurer

Mayor:
Brad E. Hill

Councilors:
Sherry Abraham
John Abrams
Chuck Ring
Rita Loy Simmons

Municipal Judge:
Wm. H. White

Administrator:
Stephen Shepherd

Clerk-Treasurer:
Estefanie Muller, CMC

**EDGEWOOD POLICE DEPARTMENT
MEMORANDUM**

To: Steve Shepherd
From: Chief Fred Radosevich 
Subject: New Hire
Date: 09-04-2015

I am recommending the Town of Edgewood offer employment to Saul Urbina as a police officer. Officer Chris Crespino conducted a background investigation and found nothing in his background that would disqualify him as a police officer. He is currently an officer with the Moriarty Police Department and lives in Edgewood. He has been with Moriarty since 2012. I have also contacted the NMLEA as part of the background to see if any disciplinary action has been taken or misconduct reports been filed. According to the NMLEA there have been no misconduct reports.

On September 3, 2015 an interview panel conducted an oral interview. The panel consisted of Officer Jerod Kuchan, Officer Anna Wendt and Officer Chris Garcia and Traci Hutson. The panel recommended that we offer Mr. Urbina employment as a police officer.

If you have any questions please feel free to contact me

SUSANA MARTINEZ
GOVERNOR



THOMAS E. CLIFFORD, Ph.D.
CABINET SECRETARY

RICK LOPEZ
DIRECTOR

BILL R. GARCIA
Deputy Director

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Bataan Memorial Building ♦ 407 Galisteo St. ♦ Suite 202 ♦ Santa Fe, NM 87501
PHONE (505) 827-4950 ♦ FAX (505) 827-4948

August 19, 2015

The Honorable Brad Hill
Town of Edgewood
PO Box 2610
Edgewood, NM 87015-3610

Dear Mayor Hill:

The final budget for your local government entity ("entity") for Fiscal Year 2016, as approved by your governing body, has been examined and reviewed. The Department of Finance and Administration, Local Government Division (LGD) finds it has been developed in accordance with applicable statutes and budgeting guidelines, and sufficient resources appear to be available to cover budgeted expenditures. In addition, the *Budget Certification of Local Public Bodies* rule, 2.2.3 NMAC, requires that your entity's audit for Fiscal Year 2014 should have been submitted to the Office of the State Auditor as of this time. The LGD's information indicates that you are in compliance with this requirement. Therefore, in accordance with NMSA 1978, Section 6-6-2 (E) (2011), the LGD certifies your entity's final Fiscal Year 2016 budget.

Please take note that state statute requires all revenue sources be expended only for public purposes, and if applicable, in accordance with the Procurement Code, Chapter 13, Article 1, NMSA 1978. Use of public revenue is governed by Article 9, Section 14 of the Constitution of the State of New Mexico, commonly referred to as the anti-donation clause.

Budgets approved by the LGD are required to be made a part of the minutes of your governing body according to NMSA 1978, Section 6-6-5 (1957). In addition, NMSA 1978, Section 6-6-6 (2001) provides that the approved budget is binding on local officials and governing authorities; and any official or governing authority approving claims or paying warrants in excess of the approved budget or available funds will be liable for the excess amounts.

Due to estimated expenditures and transfers exceeding estimated revenue, the General Fund cash balance is being depleted. Careful monitoring and aggressive revenue collections is recommended to avoid financial problems in the future.

Finally, as required by NMSA 1978, Section 6-6-2 (H) (2011), LGD is required to approve all transfers between line items and revised budgets for expenditures not included in the final approved budget.

If you have questions regarding this matter, please call Ivie Vigil of my staff at 505-827-4333.

Sincerely,

A handwritten signature in dark ink, appearing to read "Rick Lopez".
Rick Lopez, Director
Local Government

xc: file